

Admin.

January 20, 2000

Memorandum 2000-17

New Topics

BACKGROUND

The Commission has previously decided not to request legislative authority to study any new topics in 2000. However, at its last meeting the Commission directed the staff to make inquiry among the various groups that would be interested in and affected by possible studies of the Subdivision Map Act and the Mitigation Fee Act. The purpose of the inquiry is to ascertain their attitudes towards problems in the existing statutory structures and their amenability to considering improvements of these statutes.

ISSUES

The Subdivision Map Act is found at Government Code Sections 66410 to 66499.37. It is a statutory framework under which a local public entity regulates land use and development within its jurisdiction by controlling the design and improvement of subdivisions. The purposes of the law include uniformity of mapping procedures (for conveyancing and title insurance regularity), regulation and control of development (for consumer protection), and dedication of land within a subdivision, such as for streets, sewers, and parks (to ensure public use and protect the public from undue maintenance burdens).

The Mitigation Fee Act — Government Code Section 66000 *et seq.* — governs imposition of fees by a local public entity as a condition of approval of a development project.

The study of these two statutes was suggested by Commissioner Skaggs. He indicates there is a need to redraft and reorganize these complex provisions, and to resolve inconsistencies, fill gaps, and rationalize the provisions, in order to make them easier to work with. In addition, practices and procedures have developed under these statutes that are not reflected in the statute text; existing

practices and procedures should be codified so that they are clear and have a statutory basis.

PUBLIC REACTION

The staff contacted representatives of a number of principal interest groups that would be affected by studies of these areas. They include local public entities, land developers, surveyors and engineers, title insurers, lenders, realtors, and environmental interests. We also contacted personnel with key legislative committees having jurisdiction of these matters.

Of the persons we were able to speak with, we found general interest in these proposed studies. Some were enthusiastic and saw a need for this type of revision, while others saw some benefit to it but would not consider it a high priority matter for them. We encountered no one who would be concerned about or opposed to such an endeavor.

However, a significant concern expressed by a number of our contacts was that the project ought not to seek to make any major substantive changes in the law in this area. The issues are quite contentious and we would be quickly embroiled in a real political battle.

SCOPE OF STUDY

This reaction allays some of the concerns the staff had expressed about a study of these matters. It is apparent, though, that any proposed study in this area should steer away from significant substantive changes in the law.

If the Commission wishes to seek legislative authority for this study, we would phrase the grant of authority something like this:

Whether the Subdivision Map Act (Government Code Sections 66410-66499.37) and the Mitigation Fee Act (Government Code Sections 66000-66025) should be revised to improve their organization, resolve inconsistencies, fill gaps, clarify and rationalize provisions, codify accepted practices and procedures, and related matters.

Respectfully submitted,

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Executive Secretary